

WEST VIRGINIA INSURANCE COMMISSION

WEST VIRGINIA SECURITIES COMMISSION

JOINT STATEMENT OF POLICY

August 21, 2008

This Joint Statement of Policy pertaining to the sale of variable annuities is issued by the Offices of the Insurance Commissioner and the Securities Commissioner of the State of West Virginia pursuant to their respective authority granted by Chapters 33 and 32 of the West Virginia Code, 1931, as amended.

The West Virginia Securities Commission recognizes that variable annuity products are defined as an insurance product, not a security, under West Virginia law. §32-4-401(n), 3-1-10(a), and 33-13-1.

The West Virginia Offices of the Insurance Commissioner recognize that although variable annuity products are defined as insurance products under West Virginia law, and may not be promoted as investments under insurance laws, investment advice may occur in relation to a variable annuity when the transaction involves the use of or exchange of a security to fund the purchase or when the sale involves investment advice; advice concerning the advisability of investing in, purchasing or selling securities is within the jurisdiction of the Securities Commission. § 32-1-101, *et. seq.*

Accordingly, it is the policy of the West Virginia Offices of the Insurance Commissioner and the West Virginia Securities Commission that any person who sells variable annuity products by, through, or including investment advice concerning the advisability of investing in, purchasing or selling securities is subject to registration and regulation as an investment adviser with the West Virginia Securities Commission in addition to licensing and regulation as an insurance producer with the Offices of the Insurance Commissioner.

Example: An insurance agent licensed with the West Virginia Offices of the Insurance Commissioner who sells variable annuity

products suggests that in order to purchase the product a prospective client sell off security products is deemed to be giving investment advice and therefore must register as an investment adviser with the West Virginia Securities Commission.

Individuals selling, soliciting, and negotiating variable annuities should be aware of the joint regulation by the West Virginia Offices of the Insurance Commissioner and the West Virginia Securities Commission. Individuals must be familiar with and comply with both the insurance and securities laws of the State of West Virginia.

Dated this 21st day of August, 2008.

Jane L. Cline
Insurance Commissioner

Glen B. Gainer, III
State Auditor
Commissioner of Securities

By: Lisa A. Hopkins
General Council
Senior Deputy Commissioner of Securities